

**John R. Justice Prosecutor and Defender Incentive Act
Federal Loan Repayment Assistance
For Prosecutors and Public Defenders
October 1, 2013 to September 30, 2014**

Administered by:

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ANNOUNCEMENT
and
UTAH INFORMATION PACKET

**Applications Solicited for
Federal Loan Repayment Assistance
For Prosecutors and Public Defenders
Under the John R. Justice Prosecutor and Defender Incentive Act**

Utah Prosecution Council (UPC), the designated agency to award and disburse loan repayment assistance through the John R. Justice Prosecutor and Defender Incentive Act (JRJ) in the State of Utah, is now accepting applications from prosecutors and public defenders for JRJ financial assistance. UPC is located within the Attorney General's Office and will utilize the expertise of the AG's grants administrator in handling JRJ financial accounting.

THE COMPLETED AND SIGNED JRJ BENEFITS APPLICATION FORM, THE SIGNED SERVICE AGREEMENT AND ALL SUPPORTING DOCUMENTS, MUST BE RECEIVED BY UTAH PROSECUTION COUNCIL NO LATER THAN **5:00 P.M. ON MONDAY, JULY 14, 2014**. APPLICATIONS RECEIVED AFTER THAT DATE AND TIME WILL NOT BE CONSIDERED. THE JRJ APPLICATION FORM MAY BE ACCESSED IN FILLABLE PDF FORMAT ON THE UPC/JRJ WEBSITE: <http://www.upc.utah.gov/jrj/index.html>.

WHO IS ELIGIBLE?

Any person employed full time in Utah as a federal defender or a public defender in an eligible county public defender office or employed full time in Utah as a state, county, municipal or tribal prosecutor (federal prosecutors are not eligible). Employed full time means spending at least 30 hours per week as a payroll employee performing defense or prosecution functions, including supervision time.

For eligibility under the JRJ program, prosecutors and public defenders are defined as follows:

PROSECUTOR:

A full-time employee of a state or unit of local government (including tribal government) who is continually licensed to practice law and who prosecutes criminal or juvenile delinquency cases at the state or unit of local government level (including supervision, education, or training of other persons prosecuting such cases). 42 U.S.C. § 3797cc-21(b)(1). Prosecutors who are employees of the federal government are not eligible.

PUBLIC DEFENDER:

An attorney who is continually licensed to practice law and is:

- A full-time employee of a state or unit of local government (including tribal government) who provides legal representation to indigent persons in criminal or juvenile delinquency cases, including supervision, education, or training of other persons providing such representation;
- A full-time employee of a nonprofit organization operating under a contract with a state or

unit of local government who devotes substantially all of the employee's full-time employment to providing legal representation to indigent persons in criminal or juvenile delinquency cases, including supervision, education, or training of other persons providing such representation; or

- A full time federal defender attorney in a defender organization pursuant to Subsection (g) of section 3006A of Title 18, United States Code, that provides legal representation to indigent persons in criminal or juvenile delinquency cases. 42 U.S.C. §3797cc-21(b)(2).

NOT ELIGIBLE FOR JRJ ASSISTANCE ARE:

- private counsel who do court appointment work,
- part-time public defenders or part time prosecutors,
- private counsel who provide prosecution services under contract with the state or with a unit of local government, or
- private counsel who provide indigent defense services under a contract with the state or with a unit of local government.

IN DEFAULT:

Individuals who are in default of any outstanding federal loans are not eligible for repayment assistance under the JRJ program, regardless of whether loan repayment assistance is sought for those particular loans.

WHICH LOANS ARE ELIGIBLE FOR REPAYMENT ASSISTANCE UNDER JRJ

Loans eligible for assistance are limited to student loans, but include both undergraduate and graduate loans. Both direct federal loans and FFEL loans are eligible. Consolidated loans are eligible to the extent that they represent eligible direct and FFEL loans. These include Stafford loans, GradPLUS loans and Perkins loans. (*IMPORTANT: Any portion of a consolidated loan (principal and accrued interest) that is attributable to a loan originally given to a JRJ non-eligible spouse is not eligible for JRJ assistance*). Parent PLUS loans are not eligible and portions of consolidation loans representing Parent PLUS loans are not eligible.

JRJ ELIGIBLE LOANS:

- A loan made, insured, or guaranteed under part B of subchapter IV of chapter 28 of Title 20 (Federal Family Education Loan Program);
- A loan made under part C or D of subchapter IV of chapter 28 of Title 20 (William D. Ford Federal Direct Loan and Federal Perkins Loans);
- A loan made under section 1078-3 or 1087e(g) of Title 20 (Federal consolidation loans and Federal Direct Consolidation loans, respectively).

LOANS NOT ELIGIBLE FOR JRJ ASSISTANCE:

- A loan made to the parents of a dependent student under section 428B of the Higher Education Act of 1965 (20 U.S.C. 1078-2);
- A Federal Direct PLUS Loan made to the parents of a dependent student;
- A loan made under section 428C or 455 (g) of the higher Education Act of 1965 (20 U.S.C. 1078-3 (Federal consolidation loans) and 1087e(g) (Federal Direct Consolidation loans) to the extent that such loan was used to repay an ineligible loan described in above.
- Any portion of a consolidated loan that is attributable to a loan originally given to a JRJ non-

eligible spouse. (For example, when spouses have consolidated their individual educational loans into a single, consolidated loan, the amount of the consolidated loan attributable to the non-JRJ eligible spouse is not eligible for JRJ assistance.)

- Any other educational loan, such as: private loans, loans from your school, non-federally guaranteed loans from financial institutions, bar study loans, etc.

HOW WILL THE AMOUNT OF LOAN ASSISTANCE BE DETERMINED?

\$56,059 has been awarded to Utah for the JRJ Program in the 2013-14 federal fiscal year. That amount must be divided 50-50 between prosecutors and public defenders, regardless of any disparity in the relative number of eligible applicants between the two groups. (Only one state, Maine, has received a waiver of the 50/50 rule, and that waiver was given because there are no JRJ eligible public defenders there.) Nationwide the program was funded by only \$3,314,744 for the 2013-14 fiscal year. Those funds were allocated to states on the basis of population, with \$50,000 being the minimum award to any state.

The JRJ act provides that no individual may be awarded more than \$10,000 per year, up to a lifetime maximum of \$60,000. Because of the limited funds available to Utah during the current fiscal year, however, UPC, in its application to the Department of Justice for JRJ funds, provided that no single recipient of JRJ assistance will receive more than \$4,000 in any one year. That limitation was done with the concurrence of the Utah JRJ Loan Review Committee. UPC's application has been accepted and approved by the Department of Justice's Bureau of Justice Assistance.

As directed in the legislation that established the JRJ program, the primary consideration for the award of JRJ assistance will be those with "the least ability to repay their loans." All JRJ applications will be reviewed by the Utah JRJ Loan Review Committee. In reviewing applications for JRJ assistance, UPC and the Utah JRJ Loan Review Committee will use a formula that takes into consideration family income, number of dependants and the total amount of monthly student loan payments. The total time an applicant has been employed in a JRJ qualifying prosecution and/or public defender office may also be considered.

HOW WILL THE MONEY BE DISBURSED?

Payments will be made by UPC, through the Attorney General's Office, directly to the lenders, based on information provided by award recipients. The JRJ act specifically provides that no payments may be made to individuals. Payment will be made in one lump sum payment, regardless of the amount of the monthly payment. **IMPORTANT!** Individual lenders may have different policies as to how they apply a lump sum payment in excess of the regular monthly payment amount – i.e, to current and future payments, to current interest, to principal, etc. Typically, if a financial institution receives a payment on a loan that is larger than the then currently due monthly payment, the balance of the payment is applied to reduce the loan principal, and a full monthly payment is expected on the following month. Such an application of the JRJ payment, regardless of the amount, would result in relief from only one monthly payment. Prosecutors and defenders who receive JRJ assistance are strongly encouraged to discuss with their individual lenders how they want the lender to apply the JRJ payment. If the payee desires that the JRJ payment be applied to cover current and future payments, the payee must make those arrangements with his or her lender before the payment is received by the lender. Neither UPC nor the Utah Attorney General's Office will negotiate with lenders as to how payments are applied.

SERVICE AGREEMENT REQUIREMENT.

All persons receiving repayment assistance will be required to sign and submit one of the following:

- **NEW JRJ APPLICANTS:** Persons who have not previously received JRJ assistance must sign and submit a John R. Justice Student Loan Repayment Program Service Agreement. Among other things, that agreement includes a pledge to remain employed full time in a qualifying public defender or prosecution office for a period of three years from the date of any JRJ award. The agreement further provides that in the event the person voluntarily leaves JRJ eligible employment or is involuntarily separated for misconduct or unacceptable performance before completing the agreed three year period of service, the person will receive no further JRJ assistance and will be required to reimburse the Department of Justice for the full amount of any student loan repayments made on the person's behalf during the period covered by the service agreement. A voluntarily change of employment from one JRJ eligible employer to another during the three year commitment period will not adversely effect JRJ eligibility (i.e., moving from a county defender office to the federal defender office or from a defender office to a prosecution office).
- **STILL UNDER ORIGINAL THREE YEAR SERVICE AGREEMENT:** Persons who received JRJ benefits in previous year(s) but who has not yet completed the three years of JRJ eligible employment required in their original service agreement will not be required to sign a new service agreement. They are still covered by the original service agreement. Such persons will, however, for the first time this year, be required to sign a Service Agreement Acknowledgment of Benefit form wherein they acknowledge the original three year service agreement and that they are still bound by the terms of that service agreement.
- **HAVE COMPLETED THREE YEAR SERVICE COMMITMENT:** Persons who have completed the three years of JRJ eligible employment required under their original service agreement and who thereafter apply for additional JRJ benefits will not be required to sign a new three year service agreement. Such persons, as a condition of further JRJ assistance, will be required to sign a Service Agreement – Secondary Term of Service wherein they agree to remain in JRJ eligible employment for a period of one year from the date of any new JRJ award.

HOW DO YOU APPLY?

Application for JRJ Student Loan Repayment Assistance must include:

- A completed 2013-2014 Utah Benefits Application, including verification of eligible employment from the applicant's current employer.
 - Applications **MUST BE TYPED**. Handwritten applications will not be accepted. Applications may be filled out on-line then printed off for signing and mailing, or may be printed off in blank and filled out by typewriter.
 - The application may be accessed in fillable PDF format on the UPC/JRJ website: <http://www.upc.utah.gov/jrj/index.html>.
- The application must be accompanied by verification from the lender or from NSLDS showing the current status of each outstanding student loan.
- The application must be accompanied by the appropriate service agreement. (See the SERVICE AGREEMENT REQUIRED section, beginning at the top of page 4 above). All of the three service agreement forms may be accessed on the [UPC/JRJ website](#):
 - From persons who have not previously received JRJ benefits: a John R. Justice Student Loan Repayment Program Service Agreement.

- From persons who previously received JRJ assistance and who have not yet completed three years of JRJ eligible employment: a Service Agreement Acknowledgment of Benefit form.
- From persons who have completed three years of JRJ eligible employment pursuant to a previous service agreement: a Service Agreement – Secondary Term of Service.
- The completed application, with all required documentation and original signatures, must be mailed or delivered to:

Mailing Address (if mailed via US Postal Service)	Street Address (for hand delivery or FedEx)
JRJ Loan Administrator Utah Prosecution Council PO Box 140841 Salt Lake City UT 84114-0841	JRJ Loan Administrator Utah Prosecution Council Heber Wells Building 160 East 300 South - 6 th Floor Salt Lake City UT 84111

UPC is not equipped to accept on-line applications and will not accept faxed or e-mailed applications.

- All applications, including the Service Agreement and other required attachments, must be received at UPC by 5:00 p.m. on Monday, July 14, 2014.

AWARD DECISIONS:

Award decisions will be made by the five member Utah JRJ Loan Review Committee. That committee consists of two experienced public defenders, one experienced prosecutor from a county prosecution office, one experienced prosecutor from a city prosecution office, and a representative from the Utah Higher Education Assistance Authority. No member of the committee may have currently outstanding student loans. The Director of UPC will chair the committee but will not have a vote except in the case of a tie. It is anticipated that award decisions and notifications will be made within 30 days after the deadline for submission of JRJ assistance. Applicants will be notified via e-mail of award decisions.

OTHER IMPORTANT INFORMATION:

Loan Forgiveness for Public Service:

If you are currently enrolled in or are considering whether to apply for Loan Forgiveness for Public Service under the College Cost Reduction and Access Act, you should check with your lender as to whether or how JRJ benefit payments will effect your participation in that program.

Tax Obligations:

Neither BJA, the Utah Attorney General's Office nor Utah Prosecution Council provide legal advice on possible tax obligations resulting from receipt of JRJ benefits. The following is provided for informational purposes only.

On December 31, 2012, General Counsel at the Office of Justice Programs, US Department of Justice, received a letter from General Counsel for the Internal Revenue Service regarding tax obligations of JRJ fund recipients. The IRS letter was in response to a letter from General Counsel at OJP. In part that letter from the IRS provides:

“In the case of a Direct Loan, the federal government is the lender, and the loans qualify as “student loans” for purposes of §108(f)(2)(A) of the Code. Additionally, the federal government is the source of the funds for reducing the Direct Loans conditioned by statute on the borrower working for a certain period of time in qualifying public service positions. Therefore, loan repayment under the JRJ Program that discharges a portion of the borrower’s Direct Loan satisfies the requirements of §108(f)(1), and a Direct Loan borrower may exclude loan forgiveness under the JRJ Program from gross income under §108(f)(1).”

The IRS letter goes on to reach the same conclusion regarding tax obligations on JRJ loan repayment assistance funds that discharge a portion of borrowers’ FFEL or Perkins Loans.

The letter from OJP General Counsel to the IRS and the response letter from IRS General Counsel to OJP may be reviewed at https://www.bja.gov/ProgramDetails.aspx?Program_ID=65.

FREQUENTLY ASKED QUESTIONS

The FY2013-14 version of Frequently Asked Questions regarding the JRJ program may be accessed at: <https://www.bja.gov/Funding/13JRJFAQ.pdf>.